

Reserved

CENTRAL . ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 140 of 1996

Allahabad this the 3rd day of June 2002

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.  
Hon'ble Mr.C.S. Chadha, Member (A)

H.P. Gupta S/o Late Shri Ram Lal Gupta, resident  
of Betia hata South, National Highway, Gorakhpur  
employed as Sorting Asstt., Head Record Office,  
Railway Mail Service, 'G' Division, GORAKHPUR (U.P.)

By Advocate Shri Swaraj Prakash Applicant

Versus

1. Union of India through Secretary, Ministry of  
Communication, New Delhi.
2. Chief Post Master General, U.P.Circle, Lucknow.
3. Director Postal Services, Gorakhpur Region,  
Gorakhpur.
4. Senior Supdt. Railway Mail Service, Gorakhpur.

Respondents

By Advocate Miss Sadhna Srivastava

O R D E R

By Hon'ble Mr.C.S. Chadha, Member (A)

The applicant has filed this O.A. seeking  
to quash the orders of D.P.S. Gorakhpur dated 11.10.91  
annexure A-1 and the order of Chief P.M.G. Lucknow  
dated 06.03.95 (annexure A-2) and has sought promotion  
to L.S.G. grade against 1/3rd quota available in 1976  
with all consequential benefits.

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2. The brief facts of the case are that the applicant was appointed as a Sorting Assistant R.M.S. Division, Gorakhpur on 16.12.63. He qualified in R.M.S. Accountant Examination and started working as an Accountant. He worked as R.M.S. Accountant upto 13.08.1981. The applicant meanwhile had qualified for L.S.G. grade in 1976 but no promotion order was issued because there were no <sup>to</sup> vacancies available. On 11.10.1991 vide annexure A-1 it was directed that those who had passed the said examination earlier will have to re-appear in their due turn of seniority.

3. The respondent's counsel has firstly argued that the case is time barred because the promotion was denied to him vide order dated 11.10.1991, however, we find that the applicant had filed an O.A.No.493 of 1994 in which vide order dated 12.04.94 it was directed that the applicant's representation dated 21.10.91 may be considered and decided according to law. The impugned dated 06.03.95 order passed as a result of <sup>the</sup> Judgment dated 12.04.1994 <sup>by</sup> in O.A.No.493/1994, and the present O.A. has been filed on 05.02.96 and is, therefore, within time.

4. The main contentious issue in this case is whether the persons from the Accounts line can be promoted to the post of general line, and whether Shri H.P. Gupta-the applicant belongs to the Accounts line or not. Vide annexure A-2 (Compilation II) filed by the applicant himself, which is a letter dated 26.3.76 addressed to all Senior Superintendents, R.M.S. in U.P., <sup>the</sup> result of H.S. Grade examination - 1/3rd quota

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of vacancies for 1976 held on 30.11.95, was communicated, in which Shri H.P. Gupta's name is clearly mentioned under the heading "Railway Mail Service Accounts Wing". Therefore, vide his own admission, the applicant had become a part of the Accounts wing on his passing the examination of R.M.S.Accountant. Further, the applicant had perhaps anticipated that this argument will be taken against him, more so because <sup>to</sup> such grounds <sup>to</sup> were mentioned in P.M.G.'s order at annexure A-2, he himself in para-4.9 of the O.A. has tried to argue that the concerned rule does not exclude Accountants from general line. It is an indirect admission that the applicant was in the Accounts line.

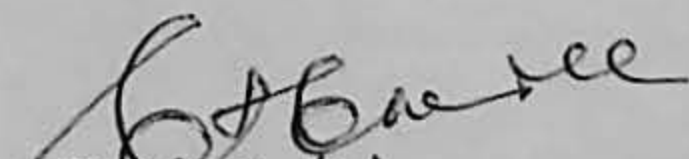
5. In their counter, the respondents have clearly averred that the post asked for by the applicant could not be given to him because he was from the Accounts line. In para-7 of their counter affidavit they have also averred that the applicant remained under suspension w.e.f. 14.08.1987 and was also awarded several punishments. He was also debarred from the post of Accountant vide P.M.G., U.P. Lucknow's order dated 28.08.1986, however, after expiry of his punishment period, he was given one time-bound promotion w.e.f. 14.09.89 and, therefore, he is not entitled to the relief claimed. We are satisfied <sup>to</sup> with both, the counter-affidavit and with the details given in the speaking order of the P.M.G. Lucknow dated 06.03.95. The said order gives in great detail why the claim of

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Shri Gupta cannot be granted. In para-5.1 thereof it has been clearly mentioned that after Shri Gupta qualified as a R.M.S. Accountant, his further selection was to be regulated according to vacancies in L.S.G. Accounts line and his name unfortunately did not come in the selection zone of 5 times of the vacancies and, therefore, he could not be considered. On several occasions Shri Gupta was not considered for promotion due to his suspension/punishment. Learned counsel for the applicant could not give any cogent reason why we should differ from the well reasoned and speaking order passed by the P.M.G., Lucknow on 06.03.95. The applicant was not entitled to the claimed promotion because he had already ceded to the Accounts line.

6. In the circumstances mentioned above, we feel that there is no merit in the O.A. and there is no reason for us to differ with the detailed and reasoned order passed by the P.M.G., Lucknow on 06.03.95. The O.A. is accordingly rejected. No order as to costs.

  
Member (A)

/M.M./

  
Vice Chairman